

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Pearl Valley Farms, Inc.
968 South Kent Road
Pearl City, Illinois 61062

ATTENTION:

Ben Thompson
Executive Vice President
ben@pveeggs.com

Request to Provide Information Pursuant to the Clean Water Act

The U.S. Environmental Protection Agency is requiring Pearl Valley Farms, Inc. (“Pearl Valley” or “you”) to submit certain information about the facility at 968 South Kent Road, Pearl City, Stephenson County, Illinois 61062. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. If you are unable to respond in a timely fashion because of impacts related to the COVID-19 pandemic, please submit a written extension request via email to burdett.cheryl@epa.gov, explaining the specific impacts on your ability to respond.

We are issuing this information request under Section 308(a) of the Clean Water Act (“CWA”), 33 U.S.C. § 1318(a). Section 308(a) authorizes the Administrator of EPA to require the submission of information by owners or operators of any point source. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 5.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, among other things, that whenever required to carry out an objective of the CWA, the Administrator of EPA shall require the owner or operator of any point source to: (i) establish and maintain such records, (ii) make

such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as the Administrator may reasonably require.

Pearl Valley owns and operates a point source at the Pearl Valley Egg Facility located 968 Kent Road Pearl City, Illinois. We are requesting this information to determine whether this source is complying with the CWA. Pearl Valley must send all required information to burdett.cheryl@epa.gov and R5WECA@epa.gov. If, for some reason, materials cannot be transmitted electronically, submissions can be sent to:

Water Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5
Attn: Cheryl Burdett, ECW-15J
77 West Jackson Boulevard
Chicago, Illinois 60604

Pearl Valley must submit all required information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a).

As explained more fully in Appendix C, Pearl Valley may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information submitted to EPA. Information subject to a business confidentiality claim is available to the public only to the

extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If Pearl Valley does not assert a business confidentiality claim when submitting the information, EPA may make this information available to the public without further notice. Pearl Valley should be aware; however, that pursuant to Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. § 2.302(e), effluent data, standards, and limitations are not eligible for confidential treatment.

This information request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

EPA may use any information submitted in response to this request in an administrative, civil, or criminal action. Failure to comply fully with this information request may subject Pearl Valley to an enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001 and 1341.

You should direct any questions about this information request to Cheryl Burdett at 312-886-1463 or burdett.cheryl@epa.gov.

Michael D. Harris (*signature and date*)
Division Director
Enforcement and Compliance Assurance Division

Appendix A

When providing the information requested in Appendix B, use the following instructions and definitions.

Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.
2. Precede each answer with the number of the question to which it corresponds and, at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information is not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

Electronic Submissions

To aid in our electronic recordkeeping efforts, EPA requests that you provide all documents responsive to this information request in an electronic format according to paragraphs 7 through 11, below. These submissions are in lieu of hard copy.

7. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
8. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

9. Provide a table of contents for the electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. *We recommend the use of electronic file folders organized by question number.*
10. Documents claimed as confidential business information (CBI) must be submitted in separate file folders apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the information claimed as CBI. Please follow the instructions in Appendix C for designating information as CBI.
11. Certify that all electronic submittals including attached files have been scanned for viruses and indicate what program was used.

Definitions

All terms used in this Information Request have their ordinary meaning unless such terms are defined in the CWA, 33 U.S.C. § 1251 *et seq.*, or 40 C.F.R. Part 122.

12. “Act” or “CWA” means the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
13. The regulation at 40 C.F.R. §122. 23(b)(1) defines an “Animal feeding operation” or “AFO” means, among other things, a lot or facility where:
 - a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and;
 - b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
14. Concentrated animal feeding operation” or “CAFO” means an AFO that is defined as, among other things, a Large CAFO. 40 C.F.R. § 122.23(b)(2).
15. Culvert is defined as a [tunnel] that allows water to flow under a road, railroad, trail, or similar obstruction from one side to the other.
16. “Day” or “days” means a calendar day unless expressly stated to be a working day. In computing any period of time under this Information Request, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business on the next working day.
17. “Discharge of a pollutant,” as defined in Section 502(12) of the CWA, means *inter alia*, “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
18. “Grab Sample” is any individual sample collected without compositing or adding other samples.

19. “Large concentrated animal feeding operation (“Large CAFO”) means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories: 30,000 laying hens or broilers if the AFO uses a liquid manure handling system, or 82,000 laying hens if the AFO uses a system other than a liquid manure handling system. 40 C.F.R. 122.23(b)(4).
20. “Manure” means “manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.” 40 C.F.R. § 122.23(b)(5).
21. “Navigable waters,” as defined in Section 502(7) of the CWA, means “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).
22. “Outfall” means a type of “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14), that serves as a discharge point from the Facility.
23. “Point source,” as defined in Section 502(14) of the CWA means “any discernible, confined and discrete conveyance...from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).
24. “Pollutant,” as defined in Section 502(6) of the CWA, means “ dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6)
25. “Process wastewater” means water directly or indirectly used in the operation of the animal feeding operation for any or all of the followings: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact, swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding. 40 C.F.R. § 122.23(b)(7).
26. “Production area” means that part of the facility that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment area. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, freestall barns, milkrooms, milking centers, cowyards, barnyards, meditation pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins, and areas with berms and diversions which separate uncontaminated stormwater. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities. 40 C.F.R. § 122.23(b)(8).

28. "Record" or "records" means any recording of information in tangible or intangible form. It includes, but is not limited to: documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer printouts, and computer databases.
29. "Storm water" shall mean storm water runoff, snow melt runoff, surface runoff and drainage.
30. "Wastewater" shall mean any water/liquid and all material conveyed with that water/liquid that contains process wastewater, discarded material, noncontact cooling and/or heating water, or domestic wastewater.
31. The regulation at 40 C.F.R. § 122.2 (1993) defines the term "waters of the United States," as
 - a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 - b. All interstate waters, including interstate "wetlands;"
 - c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 3. Which are used or could be used for industrial purposes by industries in interstate commerce;
 - d. All impoundments of waters otherwise defined as waters of the United States under this definition;
 - e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
 - f. The territorial sea; and

32. “You” or “Your” for purposes of this Information Request refers to Pearl Valley Farms, Inc. and to any managers, officers, agents, employees, contractors, or other entities that perform work or act in any way on behalf of, or at the direction of Pearl Valley.

Appendix B

Information You Are Required to Submit to EPA

Pearl Valley Farms, Inc. (“Pearl Valley” or “you”) must submit the following information pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a) associated with the facility located at 968 South Kent Road, Pearl City, Illinois 61062:

33. How is all septic waste from the barns and the residential house from Pearl Valley managed?
34. During the September 11, 12, and 19, 2019 EPA inspections, EPA collected samples at what was identified in the Inspection Report, signed on November 18, 2019, as the South Culvert Outlet and North Culvert Outlet. The samples were analyzed for the following parameters: Total Phosphorus, Ammonia-Nitrogen, Nitrate-Nitrite, Total Kjeldahl Nitrogen, and *E.coli*, into the unnamed tributary of the East Plum Creek. Identify the sources from Pearl Valley that are contributing to the pollutants that were analyzed in these samples from the South Culvert Outlet and North Culvert Outlet?
35. Please explain how the egg wash water that is generated from the washing of the eggs at Pearl Valley is being treated and managed from September 12, 2019 through the Present.
36. Explain what happens to the egg shells generated at Pearl Valley located at 968 South Kent Road, Pearl City, Illinois 61062 starting on September 19, 2019 through the Present.
- a. If the eggs shells are transported off-site, please provide the names of each person to which the egg shells are manifested and the company that they represent and the pounds of egg shells that are manifested.
 - b. Provide documentation and maps for each field owned, rented, leased, or otherwise under your control that shows that appropriate buffers, or equivalent practices, to control discharges of manure, litter, or process wastewater to waters of the United States.
37. Provide a list of all known outfalls, tiles, and/or additional culvert outlets including the outlets identified in the Inspection Report that flow into ditches or into the unnamed tributary of the East Plum Creek from land application fields under the control of Pearl Valley, ancillary areas within Pearl Valley, or from the Production Area. Please include areas from which runoff and or stormwater would run off or flow through from Pearl Valley. The list should include all locations associated with Pearl Valley with the address above and a descriptive name and identification number (include any changes in identification over time if applicable); the latitude and longitude of the location; the

source of the flow; and the name of the water body and watershed, into which the runoff may occur.

38. Provide a site plan and map identifying the locations of all outfalls at Pearl Valley listed in paragraph 37 and its identification number.
39. Provide the following information for the North and South Culvert outlets that were identified in EPA's Inspection Report:
 - a. The extent to which the discharge is continuous, intermittent, or the result of an isolated event (precipitation, land application, etc);
 - b. List the dates (if known), since September 2019, when a discharge occurred, and provide any monitoring information pertaining to any such discharge regarding volume, duration, and/or pollutants in such discharges. Provide any monitoring information that was obtained in accordance with any Clean Water Act, and Schedule of Compliance requirements.
40. During the inspection on September 11, 2019, EPA observed process wastewater discharging from a corrugated pipe coming out of Barn 8/9 and into a catch basin that flows through the North Velocity Control Structure into the unnamed tributary of the East Plum River. For January 1, 2019 through the present:
 - a. What sources contributed flow from Barn 9 through the black perforated pipe to the stormwater drain between Barns 8/9.
 - b. If there were multiple water sources contributing to the flow from Barn 9 through the black perforated pipe, what was the relative contribution of flow?
 - c. Was the system from Barn 9 changed during that time? When were changes implemented and how is the water being managed now?
 - d. Are any other barns piped to discharge in same manner as observed from Barn 9? If so, which barns?
 - e. How were those systems set up and what were the sources of flow?
 - d. How is the water being managed now from the other Barns?
41. Within 60 days of receiving this Information Request, Pearl Valley must collect representative samples for parameters listed in items 45 (i)-(iii) below from any tiles, ditches, outfalls documented in response to paragraph 36. Pearl Valley must conduct sampling at the time of any runoff events as observed during the daily walk-through. Sample collection, preservation, and test procedures must conform to 40 C.F.R. Part 136 as attached in Attachment A. Pearl Valley Eggs must report results of the sampling analysis to EPA pursuant to this information request within 30 days of collection of the sample.
42. Provide documentation from 2019 through the present of any sampling that Pearl Valley has conducted for manure, litter, process wastewater, and soil. Include the method of collection of the samples, the laboratory methods used and the laboratory analyses results.

43. Provide the total and available acres for land application covered by the Nutrient Management plan for Pearl Valley.
44. Describe the total number of acres for land application under the control of Pearl Valley for manure, litter, process wastewater, including for land application of egg shells in the last 12 months.
45. Provide the protocols used to land apply manure, litter, and process wastewater in accordance with site-specific nutrient management practices to ensure appropriate agricultural utilization of nutrients in the manure, litter, or process wastewater.
46. Conduct daily monitoring of the north and south culvert outlets located at Pearl Valley starting 15 days from the effective date of this Information Request and until 4 sampling events have been collected from each outfall. Record the following information:
 - a. Document the date, time, weather conditions (rain, snow, overcast, sunny) and whether the outfalls are discharging.
 - b. If a discharge is observed, photograph the discharge, document what outfall is discharging, the color of the discharge, and if any substances are observed in the discharge. Record duration of discharge, nature of the discharge (i.e. runoff, snowmelt, process wastewater, etc.), date of analysis, name of person taking the sample, analysis technique, method, or procedures used by the lab, and, Results of the analysis.
 - c. If the outfalls are discharging, samples must be collected within 30 minutes of a discharge, or as soon as possible.
 - d. Collect the following samples by grab method separately when a Discharge is observed from either or both of the outfalls using:
 - i. 500 mL HDPE bottle to analyze for the following parameters: nitrate-nitrite, total phosphorus, total kjeldahl nitrogen, and ammonia nitrogen. These samples need to have sulfuric acid added to them until a pH of less than 2.0 is reached and immediately put on ice until given to the laboratory for analysis. Temperature must remain at less than 6 degrees Celsius.
 1. Nitrate-Nitrite – Reference Method NECi NO7-0003
 2. Total Phosphorus – Reference Method EPA 365.4
 3. Total Kjeldahl Nitrogen – Reference Method EPA 351.2
 4. Ammonia Nitrogen (Nitrogen NH3) SM4500-NH3
 - ii. 1L HDPE bottle to analyze for the following parameters: Total Dissolved Solids, Total Suspended Solids, and Biochemical Oxygen Demand 5-day. These samples in this bottle need to be analyzed within 24 hours and immediately put on ice at less than 6 degrees Celsius until given to the laboratory for analysis.
 1. Total Dissolved Solids – Reference Method SM 2540 C
 2. Total Suspended Solids - Reference Method SM 2450 D

3. Biochemical Oxygen Demand 5-day - Reference Method SM 5210 B
 - iii. 50 mL autoclaved bottle for the following parameter. Fecal Coliform to be collected and immediately put on ice until given to the laboratory for analysis at less than 6 degrees Celsius within 5 hours of collection of the sample, so the laboratory has time to process and analyze the sample. Reference Method – 9221 CE-2006.
47. Please identify any best management practices that have been put in place since the EPA Inspection Report was signed on November 18, 2019.
48. Describe all updates or changes made to the Nutrient Management Plan to include Egg Wash Water land application in the past year.

Appendix C

Confidential Business and Personal Privacy Information

Assertion Requirements

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 308(a) of the CWA and 40 C.F.R. Part 2. Please clearly identify portions of otherwise non-confidential documents that you are claiming as confidential. EPA will construe the failure to furnish a confidentiality claim with your response to the information request may result in the information being made available to the public without further notice to you.

Determining Whether the Information Is Entitled to Confidential Treatment

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential by page, paragraph, and sentence. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much

detail as possible: For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

49. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
50. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
51. Is the information contained in any publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
52. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
53. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
54. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination.

EPA may also find that the information you claim as confidential is clearly not entitled to confidential treatment and will provide you a determination letter stating the same. Examples of information clearly not entitled to confidential treatment include effluent data, as defined in 40 C.F.R. § 2.302(A)(2), and information in National Pollutant Discharge Elimination System permit applications are not entitled to confidential treatment. See 40 C.F.R. § 122.7.

Personal Privacy Information

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as "Personal Privacy Information." Disclosure of such information to the general public may constitute an invasion of privacy.